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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,353	10/20/2003	Kiyoshi Yasuda	F-7988	4203
<div>28107 7590 07/12/2007</div> <div>JORDAN AND HAMBURG LLP</div> <div>122 EAST 42ND STREET</div> <div>SUITE 4000</div> <div>NEW YORK, NY 10168</div>				
			<div>EXAMINER</div> <div>O'CONNOR, CARY E</div>	
			<div>ART UNIT</div> <div>3732</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE</div> <div>07/12/2007</div>	<div>DELIVERY MODE</div> <div>PAPER</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/689,353

Applicant(s)

YASUDA, KIYOSHI

Examiner

Cary E. O'Connor

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edinger et al (3,349,764) in view of Newkirk (5,553,627) and Rooney et al (5,518,503). Edinger shows a tongue depressor comprising an elongated main body 15 extending in an elongate direction. The main body has an elongated hollow passageway 16 and a first and second end portions 17. The first end portion 18 having an opening contiguous with one end of the passageway, and the second end portion closing off an opposite end of the passageway (column 2, lines 46-47). The main body has opposed first and second side parts which are generally parallel to one another. The second end portion has opposed first and second outer surfaces. The first outer surface is an extension of the first side part and extending generally parallel to the elongate direction. The second outer surface is an extension of the second side part but does not define a convergent section which converges toward the first outer surface. As to claims 8 and 9, the second end portion includes third and fourth outer surfaces which do not extend in a parallel direction and which converge toward each other. Newkirk shows a tongue depressor having a main body 70. The main body has first and second sides which are generally parallel to one another (see Figure 4). An end

portion has first and second outer surfaces. An end portion has first and second outer surfaces. The first outer surface is an extension of the first side part and extending generally parallel to the elongate direction. The second outer surface 80 is an extension of the second side part and defines a convergent section which converges toward the first outer surface. Newkirk discloses that this shape is "to provide a flat and even contact surface on the tongue when the examiner has to lift the held end of the tongue depressor". (column 2, lines 61-61). It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the second end portion of Edinger as taught by Newkirk, in order to provide flat and even contact of the end of the depressor with the tongue when the depressor is angled from horizontal. Also, Edinger does include longitudinal convex protrusions disposed on the first and second side and longitudinally extending perpendicular to the elongate direction. Rooney shows a tongue depressor having longitudinal convex protrusions disposed on a side surface and longitudinally extending perpendicular to the elongate direction, in order to prevent longitudinal movement of the depressor when applied to the tongue. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the side portions of Edinger with convex protrusions extending perpendicular to the longitudinal, as taught by Rooney, in order to prevent slippage of the depressor on the tongue.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edinger et al (3,349,764) in view of Newkirk (5,553,627). Edinger shows a tongue depressor comprising an elongated main body 15 extending in an elongate direction. The main

body has an elongated hollow passageway 16 and a first and second end portions 17. The first end portion 18 having an opening contiguous with one end of the passageway, and the second end portion closing off an opposite end of the passageway (column 2, lines 46-47). The main body has opposed first and second side parts which are generally parallel to one another. The second end portion has opposed first and second outer surfaces. The first outer surface is an extension of the first side part and extending generally parallel to the elongate direction. The second outer surface is an extension of the second side part but does not define a convergent section which converges toward the first outer surface. Newkirk shows a tongue depressor having a main body 70. The main body has first and second sides which are generally parallel to one another (see Figure 4). An end portion has first and second outer surfaces. The first outer surface is an extension of the first side part and extending generally parallel to the elongate direction. The second outer surface 80 is an extension of the second side part and defines a convergent section which converges toward the first outer surface. Newkirk discloses that this shape is "to provide a flat and even contact surface on the tongue when the examiner has to lift the held end of the tongue depressor". (column 2, lines 61-61). It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the second end portion of Edinger as taught by Newkirk, in order to provide flat and even contact of the end of the depressor with the tongue when the depressor is angled from horizontal.

Claim Objections

Claim 4 is objected to because of the following informalities: In line 8, --parts— should be inserted after “side”. Appropriate correction is required.

Response to Arguments

Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cary E. O'Connor whose telephone number is 571-272-4715. The examiner can normally be reached on M-Th 7:00-3:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on 571-2724964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Cary E. O'Connor
Primary Examiner
Art Unit 3732

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